



BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of **San Jose Water Company** (U 168 W) for Authorization to Increase Rates Charged for Water Service by \$14,646,000 or 8.54% in the year 2007; \$5,196,000 or 2.78% in the year 2008; and \$6,246,000 or 3.26% in the year 2009.

A.06-02-014
(Filed February 15, 2001)

RESPONSE OF THE DIVISION OF RATEPAYER ADVOCATES TO GREAT OAKS WATER COMPANY'S MOTIONS TO INTERVENE

I. INTRODUCTION

Pursuant to Rule 45(f) of the Rules of Practice and Procedure of the California Public Utilities Commission's ("Commission"), the Division of Ratepayer Advocates ("DRA") hereby submits its response and opposition to Great Oaks Water Company's ("GOWC") Motion to Intervene in the above-captioned proceeding. DRA objects to the intervention of GOWC on the grounds that: (1) the Motion to Intervene is not timely; (2) the Motion to Intervene is burdensome; and (3) DRA's recommendation that San Jose Water Company ("SJWC") purchase more treated water will have no effect on groundwater charge rates established by Santa Clara Valley Water District ("SCVWD").

II. THE MOTION TO INTERVENE IS NOT TIMELY

GOWC's intervention into this proceeding is not timely. The involved parties have reached a settlement and GOWC made no effort to participate in the proceeding until after the settlement was reached. DRA and SJWC have reached a settlement on all matters in this proceeding. Due to the full settlement, the

scheduled evidentiary hearings were canceled. Both DRA and SJWC have been in the process of drafting and finalizing the settlement agreement. GOWC has filed its Motion to Intervene after all issues had been resolved.

Additionally, GOWC has demonstrated no interest and has made no effort to participate in the proceeding until its appearance at the settlement conference between DRA and SJWC on July 6, 2006. Nearly five months elapsed between SJWC's filing of application A.06-02-014 on February 15, 2006 and GOWC's initial appearance on July 6, 2006. During that period of time, GOWC took no formal action in this proceeding. The pre-hearing conference for A.06-02-014 was held on March 2, 2006. However, GOWC failed to make an appearance there. GOWC has made no effort to participate until this late stage in the proceeding. Therefore, its Motion to Intervene should be denied.

III. THE MOTION TO INTERVENE IS BURDENSOME

If GOWC is allowed to intervene in this proceeding it would not only place a substantial burden on the parties involved, but also would substantially inconvenience the Commission. The request for evidentiary hearings in GOWC's intervention would obstruct the settlement process and cause an unreasonable and unnecessary delay in this proceeding. DRA and SJWC have already reached a settlement on all issues and are currently finalizing a settlement agreement. Evidentiary hearings were canceled because of this settlement between DRA and SJWC.

Evidentiary hearings would not only halt the settlement process, but also the entire proceeding. The subsequent steps in the rate case process would be put on hold pending the conclusion of the evidentiary hearings and accompanying briefing process. Due to the Rate Case Plan ("RCP") for Class A Water Utilities adopted in Decision 04-06-018, this proceeding is operating on a tight schedule. Any delay caused by the evidentiary hearing requested by GOWC and the accompanying briefing process could jeopardize completing the proceeding in a

timely fashion. Furthermore, a California Environmental Quality Act (“CEQA”) review of DRA’s recommendation regarding the increased purchase of treated water will cause a considerable delay in this proceeding. In short, honoring GOWC’s intervention request will make it impossible to complete this proceeding in the time period mandated by the Rate Case Plan.

Moreover, a CEQA review of the environmental impacts of less groundwater pumping is not necessary in this proceeding because of GOWC’s current litigation against SCVWD and the Santa Clara County Board of Supervisors.¹ GOWC’s Mandamus action is concerned with the environmental impacts of reduced groundwater pumping in the Santa Clara Valley. SCVWD and Santa Clara County Board of Supervisors are the agencies responsible for setting both treated water and groundwater charge rates. Therefore, a CEQA review of the environmental impacts of less groundwater pumping would be more appropriately addressed in the Mandamus action than by extending the instant proceeding. Since DRA’s recommendation about water purchases had no effect on SCVWD’s pumping rates, the Commission is not the appropriate forum to conduct a CEQA review of SCVWD’s action. The proper venue for that action is the aforementioned litigation between GOWC and SCVWD and the Santa Clara County Board of Supervisors.

IV. DRA’S RECOMMENDATION THAT SJWC PURCHASE MORE TREATED WATER HAD NO EFFECT ON THE GROUNDWATER RATES ESTABLISHED BY SCVWD

GOWC’s Motion to Intervene should be denied because DRA’s recommendation that SJWC purchase more treated water and reduce its use of groundwater had no effect on the groundwater charge rates established by SCVWD. GOWC claims in its Motion to Intervene that DRA’s recommendation

¹ On July 11, 2006, the Great Oaks Water Company filed a Petition for Writ of Mandamus against the Santa Clara Valley Water District and the Santa Clara County Board of Supervisors in the Superior Court of California, County of Santa Clara.

that SJWC purchase more treated water and decrease its use of groundwater affected the cost of groundwater to GOWC's customers.²

However, DRA's recommendation had no impact on groundwater costs. The Santa Clara County Board of Supervisors increased groundwater charge rates prior to any settlement between DRA and SJWC. As stated in GOWC's Petition for Writ of Mandamus, the Santa Clara County Board of Supervisors voted to increase groundwater charge rates on June 6, 2006.³ DRA and SJWC reached a settlement on A.06-02-014 on June 30, 2006. Therefore, DRA's recommendation regarding the increased purchase of treated water could not have affected groundwater charge rates.

V. CONCLUSION

GOWC's Motion to Intervene should be denied. First, the Motion to Intervene is not timely. GOWC requests intervention into this proceeding after DRA and SJWC reached a full settlement and after it had demonstrated no interest in the proceeding during the five month period between when the application was filed and a settlement was reached. Second, GOWC's intervention would be burdensome. The evidentiary hearings requested by GOWC would disrupt the settlement process and unreasonably delay the proceeding and substantially inconvenience the Commission while offering no additional relief to SJWC's

² Motion to Intervene, page 1.

³ Petition for Writ of Mandamus, page 4.

ratepayers. Lastly, the Motion to Intervene should be denied because DRA's recommendation that SJWC purchase more treated water had no effect on the groundwater rate charges established by SCVWD.

Respectfully submitted,

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August 1, 2006

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing document **“RESPONSE OF THE DIVISION OF RATEPAYER ADVOCATES TO THE MOTION TO INTERVENE OF GREAT OAKS WATER COMPANY”** in A.06-02-014.

A copy was served as follows:

☒ **BY E-MAIL:** I sent a true copy via e-mail to all known parties of record who have provided e-mail addresses.

☐ **BY MAIL:** I sent a true copy via first-class mail to all known parties of record.

Executed in San Francisco, California, on the 1st day of August, 2006.

/s/ ANGELITA MARINDA

Angelita Marinda

CALIFORNIA PUBLIC UTILITIES COMMISSION
SAN JOSE WATER COMPANY (U 168 W)
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